

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of this Amendment, claims 1, 3, 6-11, and 13-18 will be pending in the present application. Claims 9, 10, 15, and 17 are allowed. Claims 11 and 16 are deemed allowable. The Applicant appreciates the Examiner's notice that claims 11 and 16 are allowable. Claims 11 and 16 have been rewritten in independent form.

Claims 1, 6-8, 13, 14, and 18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. U.S. 6,584,971 to Denyer et al. ("the '971 patent").

The '971 patent discloses a device that calculates a dose over multiple inhalations, and is principally concerned with maximizing the amount of drug delivered to the lungs. It is known that a portion of each inhalation fills the upper airway, or deadspace, and is lost during exhalation. In devices that continuously atomize, a substantial portion of the medication is wasted. This medication-free air, chase air, fills the upper airway rather than medication-laden air. The '971 patent discloses a device that determines the dead space of the user to calculate the maximum amount of medication that can be delivered into the lungs.

In contrast, the present invention is directed to collecting breath information over a number of treatments, or doses, rather than determining a single dose. To further distinguish the present invention from the '971 patent, claim 1 of the present invention recites, among other things, that the drug delivery device is arranged to deliver a predetermined dose of the drug to the patient over a plurality of breaths and that the predetermined dose is delivered during a single compliant treatment. Claim 1 further states that the device includes a trend generator for analyzing the breath information and the characteristics of the patient's breathing over multiple treatments. As amended, claim 1 clarifies that the dose corresponds to a single compliant treatment and that the trend generator operates over multiple treatments. While the '971 patent contemplates a device capable of delivering a predetermined dose of medication over a plurality of breaths which are summed to provide a single dose, it does not contemplate a trend generator for analyzing the breath information and the characteristics of the patient's breathing over

multiple treatments. Accordingly, reconsideration of claim 1 as well as all claims dependent thereon is requested.

Similarly, claim 6 has been amended to recite that the method includes delivering a predetermined dose of medication over a plurality of breaths and that each dose corresponds to a treatment. This claim further states that the analyzing step occurs over a number of treatments. For the same reasons as set forth above, claim 6 is deemed allowable. Namely, claim 6 requires both a predetermined dose to be delivered during a single compliant treatment and analysis over a number of treatments. The '971 patent does not teach or suggest this method. Accordingly, reconsideration of claim 1 as well as all claims dependent thereon is requested.

Claims 3 and 5 stand rejected under 35 U.S.C. § 103 (a) as being obvious over the '971 patent in view of U.S. Patent No. 6,192,876 to Denyer et al. ("the '876 patent). In response to this rejection, the Applicant contends that claim 3 is allowable for at least the same reasons as claim 1. Claim 5 has been canceled. Accordingly, reconsideration and allowance of claim 3 is requested.

This response is being filed with a request under the provisions under 37 C.F.R. § 1.136(a) to extend the period for response by three months. The original due date was January 23, 2007. Therefore, the period for response is extended to April 23, 2007. The Commissioner is authorized to charge the three-month extension fee, as well as any other fee required under 37 C.F.R. §§ 1.16 or 1.17, to deposit account no. 50-0558.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to this effect is earnestly solicited.

Respectfully submitted,

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